

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MYCHAEL THOMAS,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-00530

CORRECTIONAL OFFICER CHILDRESS,

Defendant.

ORDER

The plaintiff filed the instant action on April 20, 2010, alleging that the defendant violated his constitutional rights by denying him “the right to eat lunch.” (Compl. 4 [Docket 2]). He seeks monetary damages and release from incarceration. He also filed an application to proceed without prepayment of fees and costs [Docket 4].

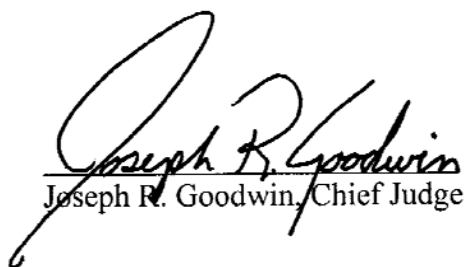
Pursuant to a 28 U.S.C. § 636(b)(1)(B) and a Standing Order, this civil case, including the above motion, was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for proposed findings of fact and recommendations for disposition. On May 19, 2010, the Magistrate Judge submitted proposed findings and recommendations (“PF&R”). Judge Stanley recommended that the complaint be dismissed with prejudice for failure to state a claim, pursuant to 28 U.S.C. § 1915A(b)(1), and that plaintiff’s application to proceed without prepayment of fees and costs be denied. On May 24, 2010, the plaintiff filed timely objections to the PF&R.

The court has reviewed *de novo* those portions of the PF&R to which the plaintiff objects and **ADOPTS** the Magistrate Judge’s proposed findings. The plaintiff’s complaint [Docket 2] is

DISMISSED with prejudice, and his application to proceed without prepayment of fees or costs [Docket 4] is **DENIED**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 26, 2010



Joseph R. Goodwin, Chief Judge